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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 10/072,177

Examiner: L. DiNola-Baron

Filed: February 11, 2002

Art Unit: 1615

In re Application of: Robert E. Fischell *et al.*

Docket No.: S1-02

For: **Devices And Methods For Reducing Scar Tissue Formation**

**PETITION TO ACCEPT AN UNINTENTIONALLY
DELAYED CLAIM, UNDER 35 U.S.C. 120, FOR THE
BENEFIT OF A PRIOR FILED APPLICATION**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8(a)(1)(i)(A)

I hereby certify that this correspondence (along with any referred to as being attached or enclosed) is, on the date shown below, being deposited with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop FEE AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated:

May 1, 2004

By:

Robert E. Fischell

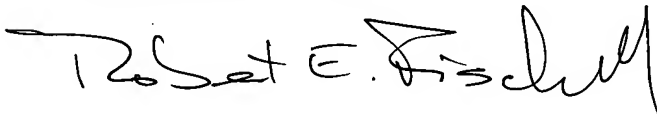
Sir or Madam:

Due to an unintentional delay, Applicants hereby petition to claim, under 35 U.S.C. 120, the benefit of a prior-filed nonprovisional application (e.g. serial number 09/772,693 filed on January 31, 2001; now issued as United States Patent No.: 6,534,693) and prior-filed nonprovisional application (e.g., serial number 09/705,999, filed November 6, 2000, now abandoned). Applicants further state the entire delay from four months after the actual filing date of the later-filed application (e.g. serial number 10/072,177 filed on February 11, 2002) to the present was unintentional.

In compliance with 37 CFR 1.78 (a)(3)(i), Applicants have:

- (i) Claimed (in a Preliminary Amendment also filed on this day) priority to, as required by 35 U.S.C. 120, the prior-filed applications. This priority claim is appropriate as: a) both prior-filed applications and later-filed application name at least one common inventor (Robert E. Fischell), b) the later-filed application disclose this named inventor's invention (as claimed) in at least one claim of the later-filed application in the manner provided by the first paragraph of 35 U.S.C. 112, and c) the prior-filed application is complete as set forth in 37 CFR 1.51(b);
- (ii) Enclosed the surcharge (of \$1,330.00) as forth in Sec. 1.17(t); and
- (iii) Provided a statement that the entire delay between the date the claim was due, under paragraph (a)(2)(ii) of 37 CFR 1.78, and the date this priority claim was filed was unintentional.

Respectfully submitted,



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Dated: April 30, 2004